IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1766 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEPUTY ENGINEER

Versus

HEIRS OF DECEASED JERAM BHOVAN

Appearance:

1. Civil Revision Application No. 1766 of 1995

MR RC JANI for Petitioner No. 1

MR MA KHARADI for Respondent No. 1-1/1/3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/02/2004

ORAL JUDGEMENT

The petitioner is the original defendant of Regular Civil Suit No.574 of 1993, which is pending in the court of the learned Civil Judge (S.D.) at Junagadh. In the aforesaid suit the original plaintiffs submitted an application for interim injunction by resorting to Order 39 of the Civil Procedure Code. The trial court rejected the application below exh.5 against which the

respondents preferred appeal being Civil Misc. Appeal No. 126 of 1994. The appellate Judge allowed the said appeal and granted injunction as prayed for by the original plaintiff of the suit. Against the aforesaid order of the appellate Judge the original defendant Gujarat Electricity Board has filed this revision application. This revision application was filed as far as in the year 1995 and while admitting the revision application this Court granted stay against the judgement and order dated 1.7.1995 of the appellate Court with the result no injunction is operating in favour of the original plaintiff.

2 Considering the fact that the suit is of the year of 1993, it is submitted by Mr R.C. Jani, learned advocate for the petitioner that he has no objection if appropriate direction is given to expedite the said suit and till then the stay granted by this Court is ordered to be continued. Mr Kharadi who is appearing for the original plaintiffs has fairly submitted that he has no objection if the interim relief granted by this Court while admitting this revision application is ordered to be extended till the final disposal of the suit and if the suit is ordered to be expedited. In view of the consensus arrived at between the parties, the following order is passed:-

"The trial Court is directed to proceed further with the suit and decide the same as expeditiously as possible and latest by 30th October, 2004. It is agreed by both the advocates that their clients will cooperate for the expeditious disposal of the suit. The interim relief granted earlier by this Court is ordered to be continued till the suit is decided finally by the trial court. The Civil Revision Application accordingly disposed of subject to the aforesaid directions. Rule is made absolute with no order as to costs. It is clarified that at the time of deciding the suit the interim observations made by the trial court as well as the appellate court shall not be taken into consideration and the suit shall be decided on its own merits. Even the fact that this Court granted and continued the stay till the final disposal of the suit should not be treated as a favourable circumstance and the suit has to be decided on its own merits and in accordance with law. Office is directed to despatch the writ to the trial court by 1st March, 2004 so that the trial court can proceed with the suit and dispose

of the said suit accordingly."

3 In view of the aforesaid directions and observations, this civil revision application stands disposed of. No order as to costs.

(P.B. Majmudar, J.)

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